

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D. 2005

MICHAEL LEE CUMMINGS,

**

Appellant,

** CASE NO. 3D05-808

vs.

THE STATE OF FLORIDA,

** LOWER TRIBUNAL

CASE NOS. F96-6506

F97-32986C

Appellee.

**

Opinion filed June 15, 2005.

An Appeal under Fla.R.App.P. 9.141(b)(2) from the Circuit
Court for Miami-Dade County, Sarah Zabel, Judge.

Michael Lee Cummings, in proper person

Charles J. Crist, Jr., Attorney General, for appellee.

Before LEVY, C.J., and FLETCHER, and RAMIREZ, JJ.

PER CURIAM.

Michael Lee Cummings seeks review of an order denying his
motion seeking post-conviction relief, in the form of jail
credit, pursuant to Florida Rule of Criminal Procedure 3.800(a).
The order denying appellant's motion seeking post-conviction

relief is affirmed, as it appears from the record that he was given the appropriate amount of credit in circuit case number 96-6506. This affirmance is without prejudice to appellant's right to pursue his complaint against the Department of Corrections administratively, if in fact the Department has failed to apply the credit specified in the record to Cumming's sentence. See Rood v. State, 790 So. 2d 1192 (Fla. 1st DCA 2001) (appellant must first exhaust available administrative remedies with the Department of Corrections; if unsuccessful, he may then file in the circuit court a petition seeking a writ of mandamus to compel the Department to credit him with the full amount of jail and prison time awarded by the trial court).

Affirmed.